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U.N. Finds Crimes, Not Genocide in Darfur

By WARREN HOGE

UNITED NATIONS, Jan. 31 - A United Nations commission investigating violence in the Darfur region of Sudan reported Monday that it had found a pattern of mass killings and forced displacement of civilians that did not constitute genocide but that represented crimes of similar gravity that should be sent to the International Criminal Court for prosecution.

In a 176-page report, the five-member panel said that its finding that genocide had not been committed "should not be taken in any way as detracting from the gravity of the crimes perpetrated in that region," and that "international offenses such as the crimes against humanity and war crimes that have been committed in Darfur may be no less serious and heinous than genocide."

The commission was appointed by Secretary General Kofi Annan in October to determine whether genocide had occurred in Darfur, in Western Sudan, where about 70,000 villagers have been killed and 1.8 million driven from their land.

It was also asked to determine how anyone convicted should be punished, and it answered by saying it "strongly" recommended that the Security Council refer the Darfur crimes to the international court in The Hague. It said the crimes in Darfur met the jurisdictional terms of the 1998 treaty creating the court.

That course of action is favored by most members of the 15-member Council, but the United States has said it will vigorously resist because it objects to the court.

The panel said the Sudanese justice system had proved unwilling or unable to pursue the crimes in what it described as a "climate of almost total impunity for human rights violations."

While the commission said that no evidence of an organized governmental act of genocide existed, it suggested that there might have been government officials and other people who acted "with genocidal intent." Only a court could make that determination, it said.

The commission said it had identified numbers of people including senior government officials and commanders, rebel fighters, militiamen, army officers and others linked to crimes but that it would withhold their names in the interest of due process and to protect witnesses.

Among the violations of international law and crimes against humanity the commission found were indiscriminate attacks by government forces and militias on a widespread basis "including

the killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging" and displacement."

It said such acts continued even while its investigators were in the country gathering evidence of them.

The commission dismissed government claims that its actions were counterinsurgency military moves. "It is clear from the commission's findings that most attacks were deliberately and indiscriminately directed against civilians," the report said.

The Bush administration has repeatedly pushed for action against Sudan's government, saying its involvement in a campaign of violence against black African villagers amounted to genocide. At the same time, the administration has objected to referring the atrocities in Darfur to the International Criminal Court, a tribunal it has opposed from its inception on grounds that the court could bring politically motivated actions against American personnel abroad.

Mr. Annan has said the court is the "logical place" for Darfur crimes to be tried, and on Monday Australia, Canada and New Zealand circulated a letter endorsing such a move.

The administration proposed last week that the Darfur charges be sent to a new tribunal to be run jointly by the African Union and the United Nations and to be based at the war crimes court in Arusha, Tanzania, which is trying suspects in the 1994 genocide in Rwanda. Pierre-Richard Prosper, the United States ambassador at large for war crimes, briefed major countries at the United Nations on the American alternative, explaining afterward, "We don't want to be party to legitimizing the I.C.C."

Several Security Council ambassadors objected to that plan immediately, citing unnecessary duplication and the additional cost of starting a court instead of using one already in existence. Addressing that on Monday, Richard A. Grenell, the spokesman for the United States mission, said, "If you're going to talk about funding, about how much it would take for what we call the S. court, the Sudan criminal court, don't forget that there's funding of what it would take on the I.C.C. We're relatively confident that ours is much less."

Stuart Holliday, a deputy American ambassador, said the United States would offer a Darfur resolution this week that would include proposals on peacekeeping, directed penalties and accountability, though probably not on what "accountability mechanisms" should be used. "The Council just discussed the fact that it's important that we send a very strong united signal on accountability," Mr. Holliday said.

He said the resolution would probably include a tightened arms embargo and a ban on flights by government planes that were intimidating villagers. "The fact that civilians are being attacked and that human rights workers are being attacked is not acceptable," he said.